

General Information Letter: IRA distributions to heir are includable in gross income under IRC Section 408(d) and therefore qualify for subtraction from base income under IITA Section 203(a)(2)(F).

July 5, 2000

Dear:

This is in response to your letter dated June 23, 2000, in which you request a letter ruling. The nature of your letter and the information provided require that we respond with a General Information Letter (GIL). A GIL is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), which may be viewed on our website at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

Your letter states as follows:

The question is: If a dependent taxpayer inherits an IRA, and income tax is paid for it at the Federal level by the dependent taxpayer, who received a Form 1099-R for the proceeds, can the taxpayer deduct it on line 5 of their State IL-1040 as retirement income, or does it change because it is inherited.

#### **RULING**

An individual's base income under the Illinois Income Tax Act ("the IITA"; 35 ILCS 5/101 *et seq.*) is equal to his federal adjusted gross income (AGI), but modified by certain statutorily prescribed addition and subtraction provisions. See IITA section 203(a). IITA section 203(a)(2)(F) provides the following subtraction modification:

An amount equal to all amounts included in [federal AGI] pursuant to the provisions of Sections 402(a), 402(c), 403(b), 406(a), 407(a), and 408 of the Internal Revenue Code, or included in [federal AGI] as distributions under the provisions of any retirement or disability plan for employees of any governmental agency or unit, or retirement payments to retired partners, which payments are excluded in computing net earnings from self employment by Section 1402 of the Internal Revenue Code and regulations adopted pursuant thereto.

Section 408(d) of the Internal Revenue Code (IRC) states in part:

[A]ny amount paid or distributed out of an individual retirement plan shall be included in gross income by the payee or distributee, as the case may be, in the manner provided under section 72.

Section 7701(a)(37) of the IRC defines the term "individual retirement plan" to include an individual retirement account described in IRC section 408(a).

Thus, to the extent that payments from an IRA to a dependent beneficiary are included in the beneficiary's federal AGI pursuant to section 408 of the IRC, the same may be subtracted in the computation of Illinois base income as provided at IITA section 203(a)(2)(F).

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As stated above, this is a GIL. Accordingly, it does not constitute a statement of policy that applies, interprets or prescribes the tax laws, and it is not binding on the Department. If you are not under audit and wish to obtain a binding private letter ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of 86 Ill. Adm. Code 1200.110(b).

I hope this information is helpful. If you have further questions concerning this GIL, you may contact me at (217) 782-7055. If you have further questions related to the Illinois income tax laws, visit our website at [www.revenue.state.il.us](http://www.revenue.state.il.us) or contact the Department Taxpayer Information Division at (217) 782-3336.

Sincerely,

Brian L. Stocker